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Dfps background check determination include

February 2019 The Health and Social Services Commission (CSSSS) conducts background checks to determine whether a person's presence in the child care operation is consistent with federal and state laws, administrative rules and minimum standards to protect the health and safety of children. 42 U.S.C. 671(a)(20) 42 U.S.C. '9857 and 45 C.F.R. Part 98 40 TAC Chapter 745, Subchapter F Texas Human Resources Code '42.056, 42.159, 42.206 26 TAC 744.901(7); 744.1103(1); 746.901(7);746.1105(1); 747.207(6); 747.901(6); 747.905(3); 747.1007(4); 747.1207(4); 748.105(6); 748.363(9); 748.505 (b)(1); 748.725; 749.105(5); 749.307 (a)(2)(A) and (B); 749.553(9); 749.605 (b)(1); 749.2447(7); 749.2473 (c); 749.2653 (a)(2); 749.3623(5); 750.105(4) 10110 Overview of Staff Responsibilities for Background Checks February 2019 Background check responsibilities are shared in the awarding of child care permits between inspectors from the Centralized Background Check Unit (UCSA) and supervisory inspectors. The following table describes roles and responsibilities. UIIHS Monitoring Inspectors Contact suppliers and individuals undergoing background checks: answer questions about background check decisions and actions; Solve problems related to submitting online background checks and respond to any other background check investigations, including the process of submitting a fingerprint or risk assessment. Notify the supervisory inspector when: urgent background check issues pose serious risks to children; and the Legal Division approves or refuses the emergency disclosure of correspondence from the Central Register. Notify operations of a person's eligibility to be present at an operation. Respond to all reported fingerprint problems related to the fingerprint service of the DPS. Search for the results of background checks and risk assessments. Processing risk assessments and reviewing risk assessments, including collecting all required documents and passing them on to appropriate staff for a final decision Consultation with the Legal Division regarding a central registry correspondence that is not maintained to determine whether the person is an immediate risk. Search for possible matches from the Central Register. To offer and follow a request for a due process hearing for a conclusion of child protection or adult protection services and to notify legally when the application is received. Support impact authors and make appropriate updates in CLASSE when a due process hearing for a CPS or CPS conclusion is cancelled. Ensure that correspondence is processed in accordance with the Child Licensing Policy and Procedures Manual. Request office advice and follow-up when they are due. Notify the supervisory inspector whenever it is determined that a supplier is not meeting the background check requirements. Answering questions related to background history rules or policies. Assess compliance with background checks, including: verifying that background checks are completed within the time required for anyone required to have a background check; Ensure that persons who are not eligible to participate in the operation are not present while the children are in care; follow-up of the transaction during any background check of a person who is not eligible to be present at the transaction with pending or active employment status in CLASSE. Inform UCSA staff of actions taken that could affect pending background checks, including the intention to refuse or revoke the licence. Help UCSA as needed when questions arise about background checks for child care activities. 10120 Individuals for whom operations must submit background check applications February 2019 Owners Each operation (other than temporary housing programs and small employer-focused programs) must submit a background check application for each owner of the operation, including: One owner; Each partner in a partnership; or Each member of the board of directors or director of a governing body who is involved in the day-to-day management of the transaction, including participating in policy development or submitting background check requests for the transaction. Current and Prospective Employees Each transaction must submit a background check request for each current and prospective employee, including: All directors and directors; and alternate employees, unless the organization contracting with the company to provide the alternate employee: has already applied for a background check of the alternate employee through the Centralized Background Check Unit over the past five years; and the operation has a copy of the results indicating that the person has a background check determination that allows the surrogate to be present at the operation. Current and potential foster parents A child placement organization must apply for a background check for each current or prospective foster parent. Prospective Adoptive Parents A child placement organization must apply for a background check for each prospective adoptive parent seeking to adopt through the child placement agency. Each person aged 14 or older Each transaction must submit an application for verification of the for each person (other than a client in care) 14 years of age or older, including a contract employee, self-employed employee or volunteer, who: is counted in the child-help ratio in accordance with the relevant minimum standards, except below for a parent or volunteer described in 10130 Persons for whom operations do not submit background checks; did not supervise supervised Children who are being cared for during the operation; Provides direct care or supervision to children in care lies in the operation; will reside in a potential adoption home or will be regularly or frequently present in a prospective business or adoption home while the children are in care. Certified Administrators Each director with a potential or current licence must submit a background check application with the original application and every five years thereafter. Texas Human Resources Code - 42.056; 42.159; 42.206 40 TAC 745.601; 745.605; 745.8933; 745.8934; 745.8993 10130 Persons for whom operations do not submit background check requests February 2019 Clients in care operations do not submit background check requests for clients in care as defined under 40 TAC 745.601(3); 745.605 (b)(1). Parent/volunteer operations do not submit requests for background checks from a parent or volunteer that only adds the child-help ratio to an aquatic activity. For child care operations, operations do not submit background check requests for: parents or volunteers who only supplement the child-care ratio for a school outing; and parents who are present at the operation only because they are visiting their child, which may include dropping off or picking up their child, having lunch with their child, visiting or observing their child, or

comforting their child. 26 TAC 744.1701, 744.1913, 746.1801(b), 746.2115, 747.1901(b), 747.2015, 748.3763, 749.3139 40 TAC -745.601 (C) 745.605(b)(2) Professional operations do not submit background checks for a licensed professional who must have a background check to meet the requirements of another government entity, if the transaction does not employ or has a contract with the professional; The professional is present at the operation in an official capacity only; and for child care operations, the operation receives written consent from the parents before the operation allows the professional to have unsupervised access to a child in care. 40 TAC - 745.605(b)(3) For the definition of the word professional, see Definitions of terms. Personal screening operations do not submit background check requests for controlling persons, such as a board member of a company or association that owns or governs the transaction, unless the controlling person also performs a role described in 10120 Persons for whom transactions must submit applications background check. 40 TAC - 745.605(b)(4) Visitor to foster homes A child placement agency does not apply for background checks for: A child who has nothing to do with a foster parent visiting the foster home, unless: the child is responsible for the care of the foster children; or there is reason to believe that the child has a criminal history or has already abused or neglected a child. An unrelated adult a foster parent who visits the foster home, unless: the adult has unsupervised access to children in care; or there is reason to believe that the adult has a criminal history or has already abused or neglected a child. 40 TAC -745.601(15)(B) Persons affiliated with inactive foster homes A child placement organization does not make requests for background checks for foster care individuals who are inactive. If the child placement organization removes a home from its inactive status and the renewal history check for any person is late, the child placement agency must apply for a new background check before a child can be placed in the home. 40 TAC 749.2823; The operation does not have to submit an application for a background check of a person with responsibilities as an employee or volunteer of the DPS or licensing. The individual will experience a background check conducted by the DFPS or HHSC as a part of the person's application to become an employee or volunteer. 40 TAC -745.617(b) 10140 Types of Background Checks February 2019 The six types of background checks that HHSC performs for people with child care are described in the following table: Type of Background Check Central Description Check A search on behalf of the Central Registry of Reported Cases of Child Abuse and Neglect in Texas. The Central Registry is maintained by the Texas Department of Family and Protective Services (DFPS) and identifies individuals found by the DFPS as having abused, neglected or exploited children under the age of 18 in Texas. Criminal Background Check in Texas Based on the name A search by name of the Texas Department of Public Safety (DPS) Arrest Database for alleged crimes committed in Texas and the Texas Sex Offender Registry. Fingerprint-based Criminal Background Check A fingerprint-based search of the DPS Database of Arrests for Crimes Committed in Texas and the Federal Bureau of Investigation (FBI) database on arrests for crimes committed anywhere in the U.S. and U.S. territories. It also includes a search of the Texas Sex Offender Registry's DPS database and the FBI database of the National Sex Offender Registry. Register of Child Abuse and Neglect Outside the State Check Research Based on database of another state or territory on persons who have been found to have abused or neglected a child. Out-of-state criminal background check A search of another state's database or territory of arrests for crimes committed in that state or territory using the person's name or fingerprints. The out-of-state sex offender registry verifies a search based on the name of the sex offender registry of another state or territory. 40 TAC -745.607 10150 Types of Background Checks Required February 2019 The types of background checks a person requires depend on: The type of application bid operation A background check The person's role in the operation; and if the person lived out of state in the five years prior to the background check application. 10151 Central Registry Check February 2019 Each person for whom an operation is required to submit a background check application must have a central registry check. See 10120 people for whom the operation is required to submit background check requests. 40 TAC -745.609 10152 Criminal Background Check Based on Fingerprints or Names February 2019 Each person who needs to experience a criminal background check must have a criminal background check based on fingerprints or a criminal background check based on the name described in the table below: Type of Operational Role in Operation Type of Criminal Background Check Authorized Operations; Verified foster homes; Approved adoption homes; Registered daycare; and registered family homes (with the exception of registered homes that provide care only to related children). All roles, with the exception of frequent and regular visitors Frequent Visitors Regular Visitors Fingerprint Base Name, except that the person requires a fingerprint-based check if the person: resided outside Texas in the five years prior to the application; or suspected a criminal history in another state. Listed homes that provide care only to related children; Temporary accommodation operations; and Small Employer Operations All roles Based on the name, except the person needs a fingerprint-based check if the person: resided outside Texas in the five years prior to the application; or suspected a criminal history in another state. Children's placement agency; and General Residential Operations Licensed Administrators Fingerprint-based In addition, a person who is present at the operation only to observe or complete a competency course as part of a college or secondary course requirement and who is supervised by a qualified caregiver at all times will only need a criminal background check in Texas. See: 10120 people for whom the operation is required to submit requests for background checks 10140 Types of background checks 40 TAC -745.611; 745.615 10153 Out-of-State Checks February 2019 Some persons who are required to have a background check and are associated with an authorized, registered or listed operation must also have checks State as shown in the table below: If the type of operation is a ... And the person... Is an out-of-state criminal background check necessary? Is an audit of the out-of-state abuse and neglect registry necessary? Is an out-of-state sex offender registry audit necessary? Daycare; School-age program or before or after school; Licensed daycare; Registered daycare; or registered family home (with the exception of a registered home that only cares for related children); has resided outside Texas for the past five years suspected of criminal history or child abuse History in another state; or is suspected of being a registered sex offender in another state; Yes, unless the state where the person resided in the previous five-year period participates in the FBI's National National Fingerprint File (NFF) program. Yes Yes General Residential Operation; Children's placement agency; Verified foster home; or the approved adoption home has resided outside Texas for the past five years; suspected a criminal history or history of child neglect in another state; or is suspected of being a registered sex offender in another state; No Yes Yes Out-of-State criminal background checks for people who reside outside Texas but are employed in a regulated business in Texas must be a fingerprint-based check in the person's state of residence. Out-of-state controls are not required for persons associated with: Listed homes that provide care only to related children; Temporary accommodation operations; and Small Employer Operations 40 TAC -745.613 10160 When background checks are required in February 2019 All child care providers must submit initial and background renewal checks of a person required to have a background check, as indicated in 10130 Persons for whom operations must submit requests for background checks. A first background check is the first background check that an operation undergoes on a person. A renewal history check is a subsequent background check that an operation submits to a person who underwent an initial background check during the same operation, if the person continues to be associated with the operation. 40 TAC 745.601; 745.621 10170 Submit background check requests February 2019 Background check requests must be submitted as follows: If the type of operation is ... Then, the method of submission of the Operation is ... Licensed operations; and registered daycares. Online through the provider's Child Care Permit Account Registered Homes; Temporary accommodation operations; and small employee-based transactions online through the provider's child care licensing account; or By sending a signed form 2971 Application for a child care permit for background checks to the Centralized Background Check Unit. 40 TAC -745.617 10171 Receipt Form Application for Child Care Permits for Background Checks February 2019 Authorized and Registered Procedure Child Care Operations If a supervisory or centralized background check unit (CBCU) staff receives Form 2971 Child Care Permit Application for background checks of a licensed operation or registered daycare. Staff contact the operation and ask the operation to submit background checks through the online child care license account suppliers. Registered Family Homes, Temporary Accommodation Care Operations and Small Employer Operations If a supervisor receives an application for a child care permit on Form 2971 for background checks on one of a Family home, temporary shelter or small employer operation, the supervisory staff scans Form 2971 and sends the scanned copy to CBCUBackgroundChecks@hhsc.state.tx.us within 3 calendar days of receiving the form. 10172 Require identification information February 2019 Procedure When staff of the Centralized Background Check Unit (CBCU) receive an application for a child care permit for background checks on a registered home, of a temporary residential care operation or a small operation based on the employer, staff must ensure that the operator of the child care operation provides certain identifying information to the person undergoing the background check for the USCS to conduct the background check. This information includes: name (last, first, middle), including maiden or married names or aliases; Date of birth; Sex; Social Security Number (NSS), if there is one; Current and previous addresses in Texas; driver's license (DL) or a state-issued identification card number (SID), if the subject has one; Ethnicity and race; All addresses where a person has lived outside the State of Texas at any time in the five years prior to the date of the background check application; Email address for the person, if available; and role in the operation, including: title and functions; Whether the person will be supervised by a caregiver counted in the child/caregiver ratio; and the age of the children the person will be caring for. Staff contact the operation if any of the required identifying information is missing from Form 2971. 40 TAC - 745.619 Exception if the subject does not have an NSS, DL or SID If the subject does not have a social security number, driver's license number or state-issued ID card number, the operation may provide one of the following if the person has one: Canadian social insurance number, military ID number, passport number or permanent resident card identification number. 10173 Information Check February 2019 Procedure When centralized staff in the Background Check Unit receive Form 2971 application for a child care permit for background checks, staff must confirm that the operator of the registered family home, the temporary operation of child care or a small employer-based operation has signed the form indicating that they have verified that the information presented is accurate. Submitting an online application is considered the same as a signature. 10180 Background Checks February 2019 Procedure After receiving Form 2971 Application for a Child Care Permit for Background Checks of a Registered Family Home, temporary child care in a shelter, a small employer-based operation and subsequent procedures in 10172 requiring identification information, and 10173 Information check, centralized staff in the Background Check Unit use the form to initiate a background check in CLASSE. 10190 When an operation may allow a person to be present at Operation February 2019 An operation must always receive notice from the Centralized Background Check Unit indicating that the determination of a person's background check makes the person eligible to be present at the transaction, with or without conditions, before the operation can allow the person to be present at the operation. The operation may allow a person to be present at the operation before receiving the determination of the person's background check for the sole purpose of attending orientation or pre-service training as long as the person has no contact with the children in care. 40 TAC 745.601; 745.635; There are four possible decisions regarding a background check submission: Description of eligibility determination Eligible period The person may be present at the operation. This determination is valid until the next renewal period (two or five years), unless the Centralized Background Check Unit (ASUC) receives new or additional information that changes the determination. Inadmissible The person may not be present in Operation This determination is permanent unless you receive an updated determination from the CSRS PART. Provisional The person may be present at an operation, but under specific conditions, the CBCU has imposed the person's presence on the operation. This determination is time-limited and will be updated to one of the other eligibility determinations once the background check is completed (e.g., out-of-state audits have been conducted; a risk assessment determination has been made; or a regular Central Registry conclusion process has been resolved). Eligible for conditions The person may be present at an operation, but under specific conditions, the CBCU has imposed the person's presence in the operation. This determination is valid until the next renewal period (two or five years), unless USCA receives new or additional information that changes the determination. See: 10700 Determine compliance with background check requirements 40 TAC -745.601; 745.629 10192 Types of Employment Status August 2019 Procedure There are three possible options for employment status for a person for whom the transaction has submitted a background check application: Description of employment status That the person is present? In the meantime this employment status applies a person that the Centralized Background Check Unit (CSR) has not yet determined the determination of eligibility; or has determined that he is not eligible to attend the operation, but the operation has not yet inactivated the person on the List of Persons. No, if the application is for an initial background check. Yes, if the person's pending status is due to a request for a renewal background check and the previous presentation shows a determination of eligibility for eligible, provisional or eligible conditions. Active This employment status applies to a person: who is associated with the transaction; and that the CBCU has determined that it is eligible to be present in the transaction, with or without conditions. Yes, but the operation may have to meet certain conditions imposed on the person's presence. Inactive This employment status applies to a person for whom the transaction has indicated that he or she is no longer associated with the transaction. No 10200 Searches the central registry of the DFPS February 2019 10210 Central Registry Searches February 2019 The Central Registry is a database of DFPS of individuals who have been found by an investigation division within the DFPS for abusing or neglecting a child. The central register of the DFPS is composed of the following individuals (IMPACT codes are displayed in brackets): the designated author (DP); Designated as both (DB), i.e. both victim and aggressor; Supported Abuse (SP) in an investigation into abuse or neglect under child protection services (CPS); Supported both (SB) in an investigation into the mistreatment or neglect of the CPS or CCI; and DP or SP in the context of an investigation into an investigative provider (IP) with a confirmed provision in which the victim was a child. Texas Human Resources Code - 42.0445; 42.056; 42.159; 42.206 40 TAC 745. Subchapter F, Background Checks 10220 How Central Registry Matches Are Determined Procedure February 2019 Once an individual's central registry check is initiated, staff from the Centralized Background Check Unit (JRC) assigned to the background check will receive a notice in CLASSE that contains all possible matches from the DFPS central register for the individual. USCA staff compare the information contained in the possible correspondences to the DFPS central registry with the following information to determine whether the person in the operation has a history of abuse or neglect: the names of possible matches and the name of the person undergoing the background check; The Social Security number (NSS) of possible matches and the NSS of the person undergoing the background check; and the date of birth (DOB) of possible matches and the DOB of the person undergoing the background check. 10221 Completed or Closed February 2019 Procedure For completed or closed investigations, the Centralized Background Check Unit (JSC) compares the identifying information of the person undergoing a background check to identifying information for all possible matches. If the CBCU determines that the person in question is likely to be a DP, DB or MS in an investigation into abuse or neglect involving a child victim, USCA staff review the investigation into abuse or neglect in IMPACT and CLASSE, if the investigation is a permissible permit 10222 Investigations Opened February 2019 Procedure For Persons Identified as Directors of an Open DFPS Investigation into An Allegation of Sexual Abuse, physical abuse or child death, the Centralized Background Check Unit (JSC) reviews the information available in IMPACT and contacts the PFD investigator to assess whether the person's presence in an operation poses an immediate threat or a danger to the health or safety of children. For all allegations, UFC staff follow up with IMPACT or the PSDD investigator until the investigation is complete to determine the outcome of the investigation. If a person in the operation becomes DP, DB or SP, then USC staff review the investigation into abuse or neglect in IMPACT and CLASSE, if the investigation is a licensing investigation. 10230 Actions When reviewing an investigation into abuse or neglect February 2019 Procedure Centralized staff of the Background Check Unit (CBCU) verify the date of evasing if the case is eligible for the purge, USCA staff have authorized the conclusion of the Central Registry. If the case is not eligible for the purge, USCA staff process the correspondence from the central registry by taking the following steps: Ensure that the person on the Central Registry is the same person who is operating child care. Determine whether the information can be used as a basis for action and notify the supervisor, if necessary. See 10240 Act on Findings in Cases of Abuse and Neglect in a central DFPS registry for more information. 10240 Act on Violence or Neglect Conclusions in the Central Registry of the DFPS February 2019 Procedure For anyone in the operation who has a central registry match, centralized staff of the Background Check Unit (CBCU) must assess whether to restrict the presence of a person in the operation. If the conclusion has not been upheld, USCA determines whether the person's presence at the operation poses an immediate threat or a danger to the health and safety of the children. If the conclusion has been upheld, USCA determines whether the person is eligible for a risk assessment and, as the case is, whether he or she is eligible to be present at the transaction pending the outcome of the risk assessment. 40 TAC -745.671 10250 Treatment of Unfiled Findings from the Central Register February 2019 Procedure Centrality Background Check Unit (USC) staff review the investigation to obtain the information necessary to assess the risk to children in care and to determine whether: finding abuse or neglect Children's Services or Adult Protection Services Division of the Department of Family and Protective Services prior to April 16, 1999. The designated author has been notified of the findings; The person's risk to children has already been assessed. An emergency release decision has already been made; or a due process hearing was offered. La La the investigator, not USC, handles due process notices of due process regarding unstained findings arising from a child care investigation (CCD). In addition, the PSDS investigator assesses the risks and applies for emergency release if an immediate threat or danger is discovered during the operation that was the subject of the CCI investigation. See: 3312 Conduct background checks 10253 Assess the risk of an emergency release 10254 Emergency release of findings based on immediate risk. 10251 DFPS Findings Before April 16, 1999 February 2019 Proceedings Centralized Background Check Unit (ITUCF) uses Form 7280 Request for Information on Correspondence from the Central Licensing Register to ask psDS to conduct an office review of a finding of child abuse or neglect by the DFPS. Child Protective Services or the Adult Protective Services Division by April 16, 1999. In some cases, PSD staff may choose to provide an administrative review of investigation findings (RRIF) to a designated author (DP) instead of conducting an office review. The contact person designated by the DFPS conducts a review of the office or the RRIF of the investigation to determine whether the standard of preponderance of evidence is being met. If then the standard of preponderance of evidence is not met. Once the DFPS notified the UFC that the conclusion had been overturned, the UFC cleared the correspondence from the central register in class. The standard of preponderance of evidence is met. Once the DFPS has advised the UFC that the balance of evidence is being respected, CFSU staff complete the steps outlined in the 10252 PSDS findings after April 16, 1999. 10252 DFPS Findings after April 16, Procedure 1999 February 2019 For findings of child abuse and neglect made on or after April 16, 1999, including findings from the Child Protective Services Division, the Adult Protective Services Division or the Child Care Investigation Division, staff of the Centralized Background Check Unit (JSC) follow section 10253 procedures assessing the risk of emergency release if USCA determines that the investigation is not eligible for the purge. 10253 Emergency Release Risk Assessment February 2019 The centralized inspector of the Background Check Unit (CST) assesses the risk to determine whether the presence of the designated perpetrator poses an immediate threat or danger to the health or safety of children. USCA uses factors to determine the person who is the subject of a background check is an immediate threat to the health or safety of children: Nature and severity of the incident Circumstances surrounding the incident Severity of any injury sustained by a child Since the incident if there has been repeated abuse and neglect Of compliance History of the operation Current regulatory status of Operation Role of the person in the incident position, role and Degree or Immediacy of Threat or Danger 40 TAC 745.751 Procedure requesting emergency release following a background check When the ITUC inspector determines that the person undergoing the background check poses an immediate threat or danger to the health or safety of the children, the inspector or manager of the USCA e-mails Form 2878 Request for emergency release from the legal licensing services mailbox and copy the inspector and supervisor; and if the application for emergency release is approved by Legal Services, completes the steps of the emergency publication of the immediate risk findings in 10254, 10255 Notice of the designated author and 10256 due process hearing actions. The risk does not justify an emergency release If the inspector, the MANAGER or lawyer in charge of the CBCU's licences determines that the presence of the designated author (DP) in the transaction does not pose an immediate threat or danger to the health or safety of the children, the USCA inspector: class documents that state that an emergency release was not appropriate or was not approved in the information specific to this narrative box of the result; Selects the determination of the conclusion of the MSV - Open investigation or due process in waiting; Selects Yes in the Field May Be Present; Finalizes the determination of the match; and completes the steps in 10255 By notifying the designated author and 10256 due process hearing actions. 10254 Emergency Release of Immediate Risk Findings February 2019 Procedure If the Centralized Background Check Unit (JSC) and Licensing Counsel determine in 10253 to assess the risk of an emergency release that the presence of the designated author (DP) in the operation is an immediate threat or a danger to the health or safety of children, then the cbcu inspector takes the following steps, if applicable: Documents information relating to the emergency disclosure of findings in the Information specific to this outcome section. Selects MSV-Barré's conclusion determination. Finalizes the determination of the match in CLASSE Informs the DP of the DP's right to a due process hearing by sending the central letter of correspondence of the registry to the author. See 7720 Hearings on Child Abuse or Neglect For more information. If the DP is minor, the notification should be sent to the parent or guardian. If the DP (or the DP parent if the DP is a minor) does not request a due process hearing in a timely manner, follow the steps in 10256.1 Actions taken when no due process is not requested. If the DP (or the DP parent if the DP is a minor) requests a due process hearing, then follow the steps in 10256.2 Actions taken when a due process hearing is requested. 10255 Notice of designated author February 2019 Notify the designated author (DP) of an investigation into the DFPS's child care in the course of investigations into DFPS DFPS child care Centralized background check unit (CBCU) staff review the details of the author of the CLASSE investigation to determine whether the DP has been notified of the right to a due process hearing. If the DP has not been notified beforehand, the UCC will notify the appropriate CCI investigator or any other CCI investigative staff, who will then send the appropriate notice. In notifying the DP of a CPS or PSA INVESTIGATION of Child Protective Services (CPS) or Adult Protective Services (CPS) investigations, UCPS staff review the CLASSE documents to determine whether the DP has already been notified of the right to a due process hearing. If the DP has not received notice of the right to a hearing, USCA sends a letter to notify the DP of the right to a due process hearing. If the DP is minor, the notification should be sent to the parent or guardian. 10256 Due process hearing actions February 2019 10256.1 Measures taken when no due process hearing is requested February 2019 Procedure DFPS Child Protection services and adult protection services Conclusions If the designated author (DP) does not request a due process hearing within the time frame, then the conclusion is upheld, and the centralized staff of the Background Check Unit (CBCU) Changing the role of the person from PD to Sustained Assault (SP) in IMPACT; and follow policies and procedures in 10260 by manipulating the sustained findings of the central registry. Exception: If the DP is minor, CFST staff do not change the role of the minor, because the role of a minor is only changed if there is indeed a hearing that confirms the conclusion of the DFPS (not a default hearing, where the conclusion was confirmed because the minor did not appear). Findings from the DFPS Child Care Surveys (CC) CCI staff send the DP notice and are responsible for changing the role of the RFP. 10256.2 Measures Taken when a due process hearing is requested February 2019 Procedure DFPS Child Protection Services or Adult Protective Services Conclusions If the designated author (or the parent of the DP if the DP is a minor) requests a due process hearing, Centralized Background Check Unit (JSC) sends copies of the following to the Clerk of the Child Licensing File at the Services Division Legal HHSC. Law Enforcement: Letter to notify the DP (or the DP parent, if the RFP is a minor) of the right to a due process hearing; The letter from the DP (or the DP parent if the DP is requesting a due process hearing; The envelope in which the request for a hearing arrived; and any emergency release documentation. Findings of Child Care Investigations of the DFPS CCI staff sends the DP notice and is responsible for sending appropriate child care licensing documents to the Legal Services Division of HHSC, Department of Law Enforcement. 10256.3 Role of the Legal Division in due process and Related Actions February 2019 Procedure The Clerk of the Case for The Granting of Child Custody Licensing at the Legal Services Division of HHSC, Department of Law Enforcement must determine whether a timely application for a due process hearing has been received. The clerk prepares files for cases that are assigned to a lawyer for the granting of child care permits to the Legal Services Division of the HHSC. Law Enforcement Department. The lawyer prepares and presents each case. The preparation of the hearing includes the collection and analysis of relevant evidence and the identification and preparation of witnesses. Preparation may also include resolving the discovery and processing any open document request. Presentation at hearings includes the presentation of legal arguments and the examination of witnesses. 10256.4 Where the conclusion is upheld at the February 2019 due process hearing if the finding is upheld at the due process hearing, this is a sustained finding. Child custody licenses from the Legal Services Division of HHSC, the Department of Law Enforcement (Legal), the Centralized Background Check Unit (CBCU) and the DFPS then take the following steps: Legal sends a copy of the Decision of the State Office of Administrative Hearings (SOAH) and orders appropriate persons, which may include the CBCU and the DFPS, if any. Justice calls for the role of the aggressor to be changed into a sustained conclusion in IMPACT. Legal sends the DFPS contact a copy of the SOAH decision and order, which will be filed in the DFPS case. 10256.5 When the finding is overturned at the due process hearing February 2019 Procedure If the finding is overturned at the due process hearing, Child custody licenses in the Legal Services Division of HHSC, the Department of Law Enforcement (Legal), the Centralized Background Check Unit (CBCU) and the DFPS, if necessary, and then take the following steps: Legal sends a copy of the SOAH decision and order to the program that conducted the investigation so that the finding of abuse or neglect can be removed from the Central. The registry and program can file the decision and order in the PFD case file; Legally requests that the author's role be changed in IMPACT by creating an administrative review (IRA) step in impact and by changing the disposition of the allegation to excluded or unable to determine, if any; legal sends a memo to the explaining SOAH's decision and order and what action to take in this case. 10260 Processing the Supported Findings of the Central Registry February 2019 Procedure After determining that the case is not eligible for the purge, the centralized inspector of the Background Check Unit determines whether the person who is the supported author is eligible for a risk assessment and is eligible to be present at the transaction pending the results of the risk assessment, if applicable, using the table in 10261 Evaluation of the results of the central register. 10261 Central Central Assessment Conclusions February 2019 The Centralized Background Check Unit (USCA) uses the following table to determine whether the person undergoing the background check is eligible to be present at the operation and whether they should be given the opportunity to request a risk assessment. See 10400 Risk Evaluation of Criminal History or Findings of Child Abuse or Neglect. Type of Finding of Central Registry for Child Abuse or Neglect Is the individual eligible for a risk assessment? Can a person be present at the operation pending the completion of a risk assessment? DFPS's sustained conclusion for physical violence. No, this person is permanently prohibited from attending a daycare while the children are in care. No, this person does not have the permanent right to attend a daycare while the children are in care. Not applicable, because this person is not eligible for a risk assessment. Sustained research by DFPS for labour trafficking. No, this person does not have the permanent right to attend a daycare while the children are in care. Not applicable, because this person is not eligible for a risk assessment. DFPS's sustained conclusion for emotional violence. Yes, Yes, if the person continued to work on the operation pending due process for the designated conclusion because the USCS had not determined that the person's presence in the same operation was an immediate threat or a danger to the health or safety of the children; or USCA has already approved a risk assessment for the same finding, the most recent audit does not reveal new information about the conclusion, and the circumstances of the person's contact with the children in the operation are the same as when USCA approved the risk assessment. Sustained conclusion of the DFPS for negligence (including abandonment, negligent supervision, physical negligence, medical negligence and refusal to accept parental responsibility). Yes, Yes, if the person continued to work on the operation pending due process for the designated conclusion because the USCS had not determined that the person's presence at the same operation was an immediate threat or a danger to the health or safety of children or USCA has already approved a risk assessment for the same finding, the most recent audit does not reveal new information about the conclusion, and the circumstances of the person's contact with the children in the operation are the same as when USCA approved the risk assessment. Any findings of the DFPS that have not been maintained, and the CBCU has determined the presence of the person who is part of a child care business is not an immediate threat or a danger to the health or safety of children. Yes, if a sustained conclusion would not prevent the person from being present at the operation. No, if a sustained conclusion would prevent the person from being present at the operation. If eligible for a risk assessment, the person may be present at the operation pending the results of the risk assessment; if the person continued to work on the operation pending the outcome of due process for the designated conclusion because USCA determined that the person's presence was not an immediate threat or a danger to the health or safety of the children; or if USCA has already approved the possibility for the person to be present at the transaction without conditions for the same conclusion, the more recent audit does not reveal new information about the conclusion, and the circumstances of the person's contact with the children at the operation are the same as when USCA has already approved this person. If the person is not eligible for a risk assessment, he or she may not be present at the transaction pending due process. Any conclusion of the DFPS that has not been upheld, but the CBCU has determined that the presence of the person in a daycare is an immediate threat or a danger to the health or safety of children. No, the person is temporarily prohibited from attending a daycare while the children are in care. Withdrawal of contact with children is not permanent until the conclusion is upheld. If soah reverses the conclusion, then the conclusion of the Central Register is purged, and the person may be present at the child care operation. Not applicable, because the person is not eligible for a risk assessment. The person must not be present at an operation while the children are being cared for A finding of abuse or neglect by another state or jurisdiction, regardless of whether the finding is upheld The person's eligibility for a risk assessment is the same as the relevant supporting conclusion of the DPS noted in this table. The person's ability to be present at an operation while the children are in care pending the results of a risk assessment is the same as the relevant sustained finding of the DPS noted in this table. Exceptions: A prospective adoptive or adoptive parent, or anyone who requires a background check due to the foster or adoptive parent application, is eligible for a risk assessment of a sustained finding of physical abuse if he or she has been more five years after the conclusion and that the potential adoptive or adoptive parent is connected or has a long-standing important relationship with the adoptive or adoptive child to be placed. Contact with children would be permitted if a risk assessment is approved for a person who meets the criteria outlined in the above exception. 40 TAC 745.671; Findings on abuse and neglect outside the state February 2019 10262.1 Role of the person who is the subject of the background check February 2019 Procedure The Centralized Background Check Unit (JSC) will notify an individual when the person needs a registry check of abuse and neglect of children out of state. The person who is the subject of the background check must: request a background check of abuse and neglect outside the state of each state in which he or she lived in the five-year period prior to the presentation of the background check; and submit the results of the audit to the USCS. 40 TAC -745.613 10262.2 Assessment of the Results of Out-of-State Abuse and Neglect Records February 2019 Procedure The Centralized Background Check Unit assesses a finding of abuse and neglect from the registry of another state or territory, the most similar finding of mal mistreatment or sustained neglect listed in the table in 10261 assessing the findings of the central registry and follows the same procedures that apply to the finding the most relevant of the DFPD. 40 TAC -745.671 10300 Conducting Criminal Background Checks February 2019 The Texas Department of Public Safety (DPS) sends criminal history results based on the Texas name and criminal history results based on fingerprints from Texas and the FBI to CLASS for each person for whom a background check has been submitted. If there is a match, the centralized inspector of the background check unit assigned to the operation receives to-do in class informing them of the correspondence to be examined. If there are no matches to the person, the result of the criminal history will be automatically marked as erased in CLASS. Texas Human Resources Code - 42.056; 42.159; 42.206 40 TAC Chapter 745, Deputy President F, Background Check 10310 Act on the Results of a Criminal Background Check February 2019 10311 Determine Appropriate Actions Based on Criminal History February 2019 Procedure When notified that a person in an operation has a criminal history, the Centralized Background Check Unit (CBCU) uses criminal conviction tables to determine whether the person's criminal history contains criminal offences that Determine whether a person may be present at an operation; are eligible for a risk assessment and if eligible for a risk assessment, may be present at the transaction pending the completion of the risk assessment. For any criminal offence that is not expressly in the relevant criminal conviction tables, the person must undergo an approved risk assessment before being present at the operation, if the person has been convicted of the offence in the past 10 years; or the person is on parole for the offence. A substantially similar federal offence or an offence in another state is treated in the same way as a similar offence in Texas. 40 TAC -745.661 Criminal offences that result in deferred arbitration Criminal offences of community supervision that result in a delay in community supervision are as a criminal conviction as follows: If, So, the supervision of the community of deferred arbitration for an offence is: The supervisory inspector is not in the process of issuing, refusing or revoking the person's licence, a criminal conviction until the person successfully completes the terms of community supervision. The evidence that a person has successfully met the conditions of community supervision is a court order that dismisses the proceedings and dismisses the person. The supervisory inspector is in the process of issuing, refusing or revoking the person's licence, always a criminal conviction for Licensee's decision to issue, deny or revoke the licence. It does not matter if the person has successfully completed the conditions of community supervision and the court has dismissed the proceedings and released the person. A person required to register as a sex offender A person required to register as a sex offender in Texas or any other U.S. state or territory may not be present at an operation while the children are in care. 40 TAC -745.669 Criminal History Correspondences for Licensed Directors For licensed administrators, USCA also assesses financial crime offences, including the following Criminal Code offences: Title 7 Property Offences; Title 8 Offences against the Administration; 11 Organized Crime. If the CBCU inspector determines that the administrator is not eligible to be a director, the USCA inspector notifies the licensing staff of the CCA State Office in Austin that handles the administrator's licensing program, so that enforcement action can be taken against the administrator's licence. 40 TAC -745.775 10312 Treatment of Juvenile Offences February 2019 Procedure In the judicial system, decisions of juvenile criminal offences are civil decisions and are not considered criminal convictions. The Centralized Background Check Unit (JSC) sends an email to the Legal Licensing Services mailbox if USCA is concerned about whether a juvenile history (arrests or decisions) poses an immediate threat or a danger to the health or safety of the children in the care of the operation. All juvenile history is marked as No minimum standard violation on the Texas name-based background check results page or on the fingerprint background results page, unless Legal determines that juvenile history is a or a danger to the health or safety of children. 40 TAC 745.601(4) 10320 Measures taken for arrests, Indictments or Criminal Complaints Procedure February 2019 If supervisory inspectors receive information from an operation in which a person associated with the operation has been arrested, charged or received a formal criminal complaint accepted by a county or district attorney, the supervisory inspector reports this information to CBCU CBCU When cbcu receives criminal history information indicating that a person associated with the operation has been arrested, charged or is the subject of a formal criminal complaint accepted by a county or district attorney, the Centralized Background Check Unit (JSC) determines whether that person may be present at an operation while the children are in care. The CBCU determines whether a person who has been arrested, charged or charged with a crime may not be present at an operation by determining whether a conviction for the arrest, charge or alleged offence would permanently or temporarily render the person ineligible to be present at the transaction pending the outcome of a risk assessment, or whether the CBCU, in consultation with the licensing lawyer, determines that the person poses an immediate threat or danger to the health or safety of children. If the person is arrested, charged or charged with a crime and would be eligible for a risk assessment if convicted, USCA may place conditions on the person's presence in the operation while the children are in care pending the resolution of the criminal case. Check the tables on the public website for more information on criminal offences eligible for a risk assessment and whether attendance at an operation can be permitted while children are in care during the risk assessment process if a conviction is committed. The person may be present at the operation unless the CBCU informs the transaction that the subject is not eligible to be present at the operation. 26 TAC - 744.305 (a)(4); 746.305 (a)(4); 747.303 (a)(4); 748.303 (d)(6); 749.503(d)(6) 40 TAC -745.631; 745.665; 745.667 10400 Criminal History Risk Assessment or Findings of Child Abuse or Neglect February 2019 10410 Eligible or Ineligible Persons a Risk Assessment February 2019 The Centralized Background Check Unit (CST) will notify the individual if the person: Criminal history contains criminal offences that are eligible for a risk assessment; or background of the Central Registry are eligible for a risk assessment. USCA will use the Criminal Conviction Tables to determine which criminal offences are eligible for a risk assessment. USCA will use the table at 10:61 a.m. to assess the findings of the central registry to determine which findings in the central registry are eligible for a risk assessment. 40 TAC 745.661; When a risk assessment is not required in February 2019 Risks approved by the Criminal Background Check Unit (AUCSA) for a criminal conviction or finding of sustained abuse or neglect does not expire and does not require a new risk assessment, if: USCA has already approved a risk assessment for the same finding of abuse or neglect or a criminal conviction for the operation; the more recent background check does not reveal a new finding of abuse or neglect, a criminal conviction or an arrest, indictment or for another crime; the role of the person (as indicated in the risk assessment decision letter) and the circumstances of the person's contact with the children in the operation are the same as when USCA has already approved the risk assessment; and the risk assessment is still in effect (i.e., it has not been cancelled by USCA). Exception Risk assessments are temporary for: a crime for which the subject of a background check has been arrested, charged, is charged; or a finding of child abuse or neglect that is not maintained and cbcu has determined that the person's presence in the operation is not an immediate threat to the health or safety of the children. This section does not apply to temporary risk assessments. Once there is a final result to the alleged finding of crime or child abuse or neglect, USCA will make a final decision on risk assessment, if required continues. 40 TAC -745.697 10412 When a risk assessment may be requested February 2019 A person undergoing a background check is responsible for requesting a risk assessment after the Centralized Background Check Unit has notified in writing that the person is eligible for a risk assessment for a criminal conviction, child abuse or finding of neglect, or has been arrested, charged or charged with a crime. The person has 30 days of calendars from the date the operation submitted the background check request to request a risk assessment. 40 TAC 745.681; 745.683; 745.685 10413 Exceptions for the time a person may be present at an operation pending the completion of a risk assessment February 2019 See table in 10261 Central Registry Results Assessment for more information on when a person with a central registry match may be present at an operation during a risk assessment is under review. See 10311 Determine appropriate criminal history measures to obtain more information on when a person with a criminal history may be present while a risk assessment is being considered. 40 TAC -745.661, 745.671 10414 Conditions Pending the outcome of a February 2019 risk assessment If a person may be present at an operation pending the completion of a risk assessment, the Centralized Background Check Unit may place conditions on a person's presence at an operation to protect the health or safety of the children. 40 TAC 745.631 10420 required for risk assessments February 2019 10421 Information required for criminal history matches February 2019 Information required for all Criminal History Risk Assessments The Centralized Audit Unit (USCA) requires the person requesting a risk assessment to submit the following information: a risk assessment request based on criminal history or findings of child abuse or neglect. A copy of the police report circumstances of the arrest. An official copy of the final record of the finding or the judicial conviction (signed by the judge and the stamped file, the last case). The age of the person at the time the crime was committed. A detailed and signed statement from the person regarding the nature and seriousness of the crime, including: why the person was arrested, charged or charged with a crime; where the person has been arrested, charged or charged with a crime; who else was involved in the criminal incident; if someone has been injured The extent and nature of other arrests in the person's criminal history; What has changed for this person since the time of arrest; and why the person does not feel that they pose a risk to children in care. Proof of rehabilitation effort. The person's work history over the past 10 years, including employee names, employment dates and positions held. At least three letters of reference from people who are not related to the person (such as professionals, employers, law enforcement agencies) and who have knowledge of the person's character and ability to work with children. If the person is currently on probation, a statement from the person's probation officer regarding the status of the person's probation. All other items requested by the USCA manager to assist with the risk assessment decision. 40 TAC -745.689 Additional documents Required if the person is associated with a foster or adoptive home If the person requesting a risk assessment is associated with a prospective or current foster or adoptive home, USCA will require the child placement agency that has submitted the person's background check to submit the following information: the names and dates of birth of all adoptive or adoptive children who have been or should be placed in the house (if it is known) A description of the parent's relationship with each child A copy of a home assessment or home screening, if any of them have been done; and a valid justification on the part of the owner, executive director or other similar position of authority of the child placement agency explaining why the person does not pose a risk to the health or safety of the children. 40 TAC -745.689 Additional documents required if the person has been incarcerated If the person requesting a risk assessment has been incarcerated, USCA requires the person to submit the following information: A copy of the local, state or federal release order; The date the individual was released from incarceration; and the parole, if any. 40 TAC -745.689 Additional documents required if the person has

received a probate sentence, including community deferred arbitration supervision If the person requesting a risk assessment has received an approved sentence (including deferred community supervision), the requires the person to submit the following information: probation dates and details of probation terms, including documentation on whether or not the person has met the terms of probation; Proof that the person paid all court costs, surveillance fees and court-ordered restitutions and fines; and if the person is currently on probation, a statement from the person's probation officer regarding the status of the person's probation. 40 TAC -745.689 10422 Information required for central registry correspondence February 2019 Information required for all risk assessments for central registry matches Central Audit Unit a background requires that the transaction requesting a risk assessment submit the following documentary evidence regarding the findings of the Central Registry for risk determination: A risk assessment application based on criminal history or child abuse and neglect. The person's age at the time of abuse or neglect. The time that has elapsed since the last finding of abuse or neglect of the person. A detailed and signed statement from the individual regarding the nature and seriousness of the finding of abuse or neglect, including: The circumstances of the incident and the investigation of abuse or neglect; The extent and nature of the person's history of abuse or neglect; This has changed for this person since the conclusion of abuse or neglect; and why the person does not feel that they pose a risk to children in care. Proof of rehabilitation effort. At least three letters of reference from people who are not related to the person (such as professionals, employers, law enforcement agencies) and who have knowledge of the person's character and ability to work with children. The person's work history over the past 10 years, including employer names, employment dates and positions held. h. All other items requested by the UCSA manager to assist with the risk assessment decision. 40 TAC -745.691 Additional documents Required if the person is associated with a foster or adoptive home If the person requesting a risk assessment is associated with a prospective or current foster or adoptive home, UCSA will require the child placement agency that has submitted the person's background check to submit the following information: the names and dates of birth of all adoptive or adoptive children who have been or should be placed in the house (if it is A description of the relationship of adoptive or adoptive parents with each child; A copy of a home assessment or home screening if completed and a valid justification on the part of the owner, executive director or other similar position of authority of the children's placement organization explaining why the person does not pose a health risk or or children. 40 TAC -745.691 10430 Risk Assessment Requests February 2019 10431 Application and Risk Assessment Delays February 2019 Central manager The background check or design unit reviews the risk assessment application and provides the person undergoing the background check and the operation who submitted the background check application with a written determination of eligibility , including the final decision on risk assessment, within 45 days calend those of the date on which the operation submitted the background check. 40 TAC -745.693 10440 Make a risk assessment decision February 2019 When making a risk assessment decision, Centrally Qualified Background Check Unit considers the following for criminal history and central registry findings: The content of the risk assessment package as described in 10421 Information required for criminal history matches or 10422 Information required for central registry matches , including if the person who requested the risk assessment did not provide information; The compliance history and regulatory status of the transaction; The person's planned or current roles and responsibilities that were included in the presentation of the background check of the operation; the time that has elapsed since the criminal conviction, the finding of child abuse or neglect, or the crime for which the person has been arrested, charged or charged; The nature and seriousness of the criminal conviction, child abuse or neglect, or the crime for which the person was arrested, charged or charged; the person's role in the criminal conviction, the finding of child abuse or neglect, or the crime for which the person was arrested, charged or charged; If there is a tendency to any type of crime, abuse or neglect; Work history, references and any evidence of rehabilitation efforts over the past 10 years; All federal requirements for criminal history and findings of child abuse and neglect; and any other relevant factor that improves or mitigates the risk to the health or safety of children in the operation. 40 TAC -745.695 10450 Document risk assessments February 2019 Procedure risk assessments are followed in CLASSE in the Risk Assessment section of the Background Check Results pages. 10460 When a risk assessment expires in February 2019 a conditionally approved or approved risk assessment will not expire unless the person under review has been arrested, charged or charged with another crime, or has an additional criminal conviction or finding of child abuse or neglect; The person's role in the operation, including the circumstances of the person's contact with the children, becomes different from when the Centralized Background Check Unit (CSR) approved the risk assessment; the person becomes employed in a different operation than the CBCU CBCU Risk assessment or UCSA amends or cancels the risk assessment in response to: a request to review the risk assessment decision; or an operation that does not follow the conditions of a person's presence at the operation; If a risk assessment expires due to new criminal history or child abuse or neglect, a different role in the operation or employment on another farm, UCSA will re-assess the risks or re-assess the risk assessment based on the new information. Risk Assessments for Pending Criminal Charges A risk assessment approved for a pending criminal charge is temporary pending the final outcome of the alleged crime. Once there is a final outcome, UCSA will make a final decision on the risk assessment, if it continues to be necessary. 40 TAC - 745.697 10470 Obtaining a risk assessment forecast for licence applicants February 2019 A supervisory inspector may request a centralized background check unit (JSC) risk assessment forecast for applicants who have unsullied findings from the Central Registry. Procedure A risk assessment forecast is a process to determine whether a risk assessment would likely be approved for a person who has an unsullied finding of the Central Registry that: is awaiting a due process hearing; did not result in an immediate risk determination; and would be eligible for a risk assessment if it were maintained. To determine whether a risk assessment would likely be approved for an individual who requested a due process hearing, the supervisory inspector sends an email to the UITSA manager of the UESA staff assigned to the operation requesting a risk assessment forecast. The supervisory inspector includes in the application: name, social security number, and date of birth of the person with unstained conclusion; The name and number of the operation The role of the person (both in the investigation and in the operation); A brief summary of the investigation and concerns, including the IMPACT survey number; If the person is currently present at the operation; If a security plan has been implemented and the person's presence in the operation has been prevented pending the completion of the investigation by the DFPS; The state of due process and any information that the DFPS or HHSC has provided to the individual about the unsullied conclusion. The monitoring inspector provides any additional information to UCSA upon request. Once the information is provided, measures are taken, if any; UCSA documents the risk assessment forecast in class, including whether the risk assessment would likely be approved and, if so, what conditions are recommended. The supervisory inspector coordinates with the Child Licensing Lawyer of the Legal Services Division of HHSC, Department of Law Enforcement (Legal) to determine if a licence may be refused (if any) and, if so, what information may be applicant as to the reason for the refusal. The monitoring inspector will then notify UCSA if the permit will be refused, if any. If a licence is refused, the supervisory inspector will also notify the CBCU of the information that will be communicated to the applicant about the reason for the refusal (see Notice of Decision 7633 to refuse, revoke or suspend an application or licence). 10500 Notification of The Determination of The Background Check February 2019 After receiving the results of a background check, the Centralized Background Check Unit sends the operation and the person undergoing the background check a written determination of the background check as soon as possible, but no later than 45 calendendative days from the date the operation submitted the background check. 40 TAC -745.627 10510 Notice to Operation February 2019 The letter of notice sent by the Centralized Background Check Unit (JSC) to the transaction will include: a determination of eligibility, eligibility, eligibility for conditions or provisional eligibility for conditions to be present in the transaction (see 10191 Types of Eligibility Determinations); All conditions that the CBCU imposed on the person's presence at the operation, if any; and a list of each additional operation that submitted a background check request for the person and when the operation submitted the application. 40 TAC -745.633 10511 Additional Information Sent to a Child Placement Agency February 2019 For persons associated with a current or potential foster home or adoption home, The letter of notice that the Centralized Background Check Unit (ITUC) sends to the child placement agency will include this additional information: the types of background checks performed; All criminal history obtained, if any; any sustained findings of the Central Registry, including findings of abuse or neglect outside the state, if any; any finding of the Central Registry that is not upheld, if any, and the CBCU has determined that the person is not eligible to be present at the transaction while due process is pending (UCSA will follow up with another notice regarding the person's ability to be present after due process has been exhausted); and if the person is eligible to request a risk assessment, if any, and if they can be present at the transaction pending the results of the risk assessment. The transaction must comply with the conditions imposed by the ITUC on the person or the granting of permits may change the conditions, risk assessment decision or take enforcement action. 40 TAC - 745.633 Criminal correspondences that are not convictions and cannot be shared with a child placement agency Criminal correspondences with a non-disclosure order or undisclosed criminal record order are not convictions. As there is no conviction, there is no CBCU cannot share this information with a child placement organization. A description of each of these provisions is noted below: Non-Disclosure Order - There is a court order prohibiting the disclosure of any records relating to the underlying criminal allegations, arrest, and so on. The order can only be granted if the defendant has successfully obtained deferred community supervision (sometimes known as probation) and has filed an application for non-disclosure with the jurisdictional court. Disbarred file - A person's criminal history has been erased, and the person has a legal right to deny that the arrest has already taken place (the same concept as a non-disclosure order, except that there has never been a finding or admission of guilt to the crime in question). 10520 Notice to the person undergoing background checks February 2019 The letter of notice that the Centralized Background Check Unit (CST) sends to the person undergoing the background check will include the following information, if any: the types of background checks performed; Criminal history Any sustained findings of the Central Registry; any conclusion of the Central Register that is not upheld and instructions on requesting an administrative hearing of the State Office (SOAH) to challenge the conclusion; If the person can request a risk assessment and if they can be present at the transaction pending a risk assessment; Determine whether the person may be present at an operation All conditions imposed on the person's presence during an operation; Any additional information that UCSA needs to conduct background checks and when the information is due; and information on how to challenge the accuracy of the results of the background check and how to request a review of the determination of the background check. 40 TAC -745.639 10600 Handling of disputed background check decisions February 2019 The person undergoing the background check may ask the Centrality Background Check Unit (JSC) to review the determination of the background check if the person: does not agree with the determination; or has new information that was not available at the time the CBCU made this decision. 40 TAC -745.645 10610 When to request a review of the determination of the background check February 2019 A person undergoing a background check may ask the Centrality Background Check Unit (ITUC) to review the background check: within 30 calendar days of the date of the CASA notice letter informing the person of the determination; or whenever the person can provide new information that was not available at the time UCSA made this decision. 40 TAC - 745.645 10620 How to request a review of the determination of the background check February 2019 A person who undergoes a background check may The Centralized Background Check Unit (JSC) reviews the determination of the background check by sending a written request to the UCSA inspector who made the decision, which must include: within 30 calendar days from the date of the CBCU notice letter informing the person of the determination; or whenever the person can provide new information that was not available at the time UCSA made this decision. Why the person does not agree with the determination of the background check, if any; and any new information that was not available at the time UCSA made this decision, if any. Provide new information regarding an interim determination of the background check if an individual has an interim determination of the background check and has new information about the conclusion that led to the determination, a formal review request is not required. The person can send the new information directly to the UCSA inspector who made the interim decision. 40 TAC - 745.645 10630 Assessment of the Background Check Determination Review Application February 2019 The centralized inspector of the Background Check Unit (CBCU) has 30 calendar days to provide the person who requested the background check determination review with a written response. UCSA can extend the period by 30 days for a good cause. During the review, the UCSA inspector believes that there is no reason why the individual does not agree with the determination of the background check; Any new information provided by the person and if all the background check rules for Chapter 745, Subchapter F were followed. The UCSA inspector encourages the person challenging the background check determination to work directly with the agency to provide the results to resolve the issues. 40 TAC -745.645 10631 Disputed Criminal History Treatment Procedure February 2019 If a criminal background check indicates that a person has committed a minimum violation of the standards, but because the person disputes the accuracy of the criminal history, the Centralized Background Check Unit (JSC) asks the individual to send an email to the DPS Error Resolution Unit at error.resolution@dps.texas.gov to resolve the issue. The person can visit the DPS website for more information. If the person believes that the results of the criminal history available to the UCSA contain an error or incomplete information, the UCSA inspector asks the person to a copy of the court's official record to confirm the correct charge and decision. 40 TAC - 745.643 10632 Manipulation of the disputed findings of the Central Register February 2019 Procedure The centralized inspector of the Background Check Unit (CBCU) works with the person undergoing a background check to determine the correct information if the person agrees that the central registry correspondence is that of the person, but believes that the conclusion is incorrect; or disputes that The correspondence of the central register is to the person. If a person challenges a finding of abuse or neglect of a child from another state, the CBCU inspector refers the person to the Criminal Background Check List for contact information for agencies dealing with child abuse and neglect checks in states outside Of Texas. 10640 Challenging itU's background check determination review in February 2019 If the person undergoing the background check has requested a background check review and does not agree with the determination of the centralized background check unit (JST) review, the individual may ask the Director of the UITH to review the accuracy of the determination of the examination. The Director of UCSA may conduct this review or assign the review to a person who had not previously participated in the initial determination or review. The decision of the director or designee of the CBCU is final. 40 TAC -745.645 10700 Determination of Compliance with Background Check Requirements February 2019 Procedure During inspections and investigations, supervisory inspectors must determine whether the operation complies with all background check requirements, including: Submit background checks for all persons required to have a background check on the basis of appropriate timelines; Ensure that those present at the operation have an eligibility determination of eligible individuals who are eligible with conditions or are provisionally eligible with conditions; Respect the conditions imposed on the presence of a person during an operation; Inactivating a person's role or employment and validate the list of employees of the operation. 10710 Evaluation of a transaction's adherence to the submission and eligibility requirements August 2019 During an application, initial or monitoring inspection, the watch inspector must ask the operation for a list of all persons in the operation who must experience a background check. For child placement agencies, this list should include all adoptive or adoptive parents who have been audited since the last inspection, including household members aged 14 and over. The watch inspector must then compare this list with the list of persons in CLASSE or classmate to determine if the operation: did not submit names in a timely manner (including renewal checks); allowed anyone with pending employment status to be present at the operation, unless: No one is present for the sole purpose of attending orientation or pre-service training and has no contact with children in care; or the person's pending status is due to a renewal background check application and the previous submission shows a determination of eligibility for eligible, provisional or eligible conditions; or allowed anyone who is not eligible to be present at the operation. Supervisory inspectors must follow the same process during an investigation for constituents and guarantees. To determine whether or not there was an administrative penalty for non-compliance with a background check requirement, see section 7520 assessing the need for an administrative sanction. See also: 4140 Prepare for Inspections 4150 Performing Inspections 10120 Persons for whom operations must submit background check requests 10160 When background checks are required to be submitted 40 TAC-745.621; 745.635; 745.641 10720 Assessment of compliance with the conditions of an operation February 2019 When conducting an application, initial inspection or monitoring inspection, the monitoring inspector must assess whether the operation adheres to all the conditions that the Centralized Background Check Unit has imposed on the presence of a person in the operation. The monitoring inspector identifies each person on the list of persons of the operation in CLASSE or classmate who has conditions using the indicator conditions (indicated by a Yes in the conditions? column for the person). For each person with conditions, the supervisory inspector should consult the specific conditions of CLASS or classmate and assess whether the operation adheres to these conditions. Supervisory inspectors must follow the same process during an investigation inspection for principals and warranties. 40 TAC -745.635(3) 10730 Inactivation of a person's role or employment February 2019 Operations must indicate when a person undergoing a background check is no longer associated with the operation. The operation must inactivate a person's role or employment status within seven days of those where they are no longer associated with the operation. This includes when: a person leaves a job or volunteer role; a person leaves the operation if they are no longer in a role that requires a background check; A prospective employee or volunteer has not been hired or a person is not eligible to be present at the transaction. If a company has a child care licence account and is unable to access it, the Centralized Background Check Unit or the Monitoring Inspector can help by inactivating the CLASSE person. 40 TAC -745.651 10740 Validating the list of employees February 2019 Operations must validate the current list of the operation of persons associated with the operation: once a year through their child care permit account for licensed and registered childcare homes; once a year through their child care permit account or a local licensing office for registered family homes; or once every three months through their child care permits for all other operations. The Centralized Background Check Unit or the Monitoring Inspector can assist operations that do not have access to their child care permit account by validating the list of persons in CLASSE. 40 TAC -745.651 10750 Processing Court Orders February 2019 Procedure A court order may be place that: requires a child to remain in a placement where a prohibited person lives or is present. waives one or more background check requirements, such as a fingerprint check or risk assessment. If a court order is in place, the following steps are taken: if the inspector of the Centralized Background Check Unit (JSC) inquires about the court order through the operation, the UCSA inspector will notify the supervisory inspector, and vice versa. If the children are in the DFPS conservatory, the supervisor contacts the social worker or supervisor of the social worker to verify that a court order allowing the person to be present at the operation is in effect. The supervisory inspector informs the UCSA inspector, who then documents the information contained in the class, under the history of the results of the person's background check. The supervisory inspector informs the operation that the operation must obtain a written order from the court as soon as possible and forward a copy to the UCSA supervisor and inspector. The supervisory inspector also informs the operation that he must keep the written order on file while it is in effect and that the prohibited person lives or is present in the operation while the children are in care. After receiving a copy of the court order, the supervisory inspector places the copy of the order in the paper file of the operation. 10760 When to refuse or revoke a licence based on a criminal history or history of child abuse or neglect February 2019 Child custody permit must refuse or revoke a licence when: the applicant or the licensee has a criminal history or a history of child abuse or neglect that renders the person ineligible to be present at the operation while the children are in care; or the spouse of the applicant or licence holder or any other person is not eligible to be present at a transaction and the applicant or licensee refuses or is unable to remove the person from the operation. See 10261 Assessment of Central Registry Findings and 10311 Determining Appropriate Criminal History Measures to obtain more information on individuals who are not permanently eligible to participate in child care while children are in care. Procedure Child care licence refuses or revokes a licence if a criminal history, child abuse or history of neglect would render one the other of the following persons ineligible to be present at an operation: applicant or licensee; or a member of the household, including a spouse, at the home of the applicant or licence holder who is unable or unable to remove from the home. A person is not eligible to participate in an operation if he or she has a criminal history or a history of child abuse or neglect that: is not eligible for a risk assessment; is eligible for a risk assessment, and the applicant, licence holder, spouse or other person does not request a risk assessment; or risk assessment is not approved. See 10261 10261 Findings from the Central Registry and 10311 Determining appropriate criminal history-based measures to obtain more information on who is eligible for a risk assessment. If the applicant or licence holder is a commercial entity, such as a corporation, there may be room for the person with a criminal history to leave the business entity without having to revoke or deny the licence. However, if the person with a criminal history remains responsible to the business entity, then license takes adverse action against the licence. In such cases, the licensing inspector seeks advice from the Legal Division. Texas Human Resources Code - 42.072(d)(f) 40 TAC - 745.631; 745.8605 See: 3711 Refusal due to general information 7621 Refusal Tax Criteria 7624 Criteria for Revocation Revocation

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